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Infineon Technologies Americas Corp.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

INFINEON TECHNOLOGIES AG AND
INFINEON TECHNOLOGIES AMERICAS CORP.

Plaintiffs,

vs.

REDCOM LABORATORIES, INC.,

Defendant.

Case No. 5:16-cv-4075

**COMPLAINT FOR TRADEMARK
INFRINGEMENT; FALSE
DESIGNATION OF ORIGIN;
DECEPTIVE, FALSE, AND
MISLEADING ADVERTISING;
AND UNFAIR COMPETITION**

DEMAND FOR JURY TRIAL

1 For its Complaint against Defendant Redcom Laboratories, Inc. (“Redcom” or
2 “Defendant”), Plaintiffs Infineon Technologies AG and Infineon Technologies Americas Corp.
3 (collectively, “Infineon” or “Plaintiffs”) allege as follows:

4 **NATURE OF THE ACTION**

5 1. This action involves claims for trademark infringement, false designation of
6 origin, false advertising, and unfair competition stemming from Redcom’s recent launch of a
7 computer product under the name INFINION. Infineon owns incontestable rights in the
8 trademark INFINEON, which is the subject of United States Trademark Registration Nos.
9 2,516,259 and 3,267,884 (the “INFINEON Marks”). Redcom’s use of the nearly identical term
10 INFINION raises a substantial risk of consumer confusion and resulting harm to Infineon.

11 2. Since 1999, Infineon has developed and sold computer products under the
12 INFINEON Marks for a broad range of applications including telecommunications, power
13 management, encryption, and security. Infineon’s products and services include, for example,
14 integrated circuits, semiconductors, controllers, processors, mobile communications products and
15 technology, software, software development kits, and design of data processing programs.
16 Infineon is a market leader in the field of hardware and software for secure communications and
17 networking, among others. The name INFINEON has become synonymous with Infineon, is
18 well known throughout and beyond the broad markets Infineon serves, and has earned extensive
19 goodwill through its many years of use in connection with Infineon and its products in the United
20 States and worldwide.

21 3. On information and belief, Defendant Redcom develops and sells computer
22 products for telecommunications applications. In September 2015, Redcom launched a new
23 product, which it named INFINION. According to Redcom, the INFINION product is a
24 “Unified Communications platform” that can be used as a “complement to existing switch
25 networks from . . . third party vendors.” Among other features, Redcom touts INFINION’s
26 ability purportedly to provide “Secure & Encrypted communications.” On information and
27 belief, at the time Redcom began using the INFINION name in commerce, it was aware of
28

1 Infineon and the INFINEON Marks, and deliberately adopted the name in spite of such
2 knowledge.

3 4. Upon information and belief, Redcom's INFINION product is directed to many of
4 the same markets that Infineon serves, including the telecommunications and security markets.
5 Upon information and belief, Redcom's INFINION product is targeted to many of the same
6 customers that Infineon targets, including telecommunications companies, the government and
7 military, utilities, mining and exploration companies, and emergency response organizations, and
8 indeed may be used in conjunction with or as a "complement to" Infineon's products. This
9 overlap in applications, potential customers, and channels of trade presents a substantial risk of
10 confusion and injury to Infineon's reputation as a result of Redcom's misappropriation of the
11 INFINEON Marks.

12 5. On December 3, 2015, Infineon wrote to Redcom asking Redcom to discontinue
13 all use and efforts to register the INFINION mark. In a December 29, 2015 response, Redcom
14 rejected Infineon's request and stated its intention to continue using the INFINION mark despite
15 the clear risk of confusion.

16 6. Redcom's conduct constitutes trademark infringement and false designation of
17 origin under the Lanham Act, 15 U.S.C. § 1114(a) & § 1125(a), and unfair competition and
18 deceptive, false and misleading advertising under California state law.

19 **THE PARTIES**

20 7. Plaintiff Infineon Technologies Americas Corp. is a wholly-owned U.S.
21 subsidiary of Infineon AG, incorporated in Delaware with its principal place of business in El
22 Segundo, California, and with significant business operations in this District in Milpitas,
23 California.

24 8. Infineon Technologies AG ("Infineon AG") is a foreign corporation organized
25 and existing under the laws of Germany having a principal place of business in Neubiberg,
26 Germany.

1 potential customers for Redcom's INFINION product. On information and belief, Redcom
 2 collaborates with its technology partners to integrate Redcom systems, such as INFINION, into
 3 telecommunications products offered by these other companies. Redcom then co-markets and
 4 co-promotes the integrated products with its technology partners. Redcom has specifically
 5 partnered with Brocade, a technology company with corporate headquarters in San Jose,
 6 California, to co-promote its INFINION product with Brocade's IPsec encryption technology.

7 14. Redcom describes itself as having a "global customer base" and a "global
 8 reputation for performance." Redcom's website is generally accessible to the public and
 9 advertises Redcom's products, including its INFINION product. Redcom invites people from
 10 anywhere in the United States, including California, to contact it regarding the INFINION
 11 product. In particular, under the heading "GET MORE INFORMATION," Redcom's webpage
 12 on INFINION states: "Are you interested in delivering Unified Communications services to
 13 your customers? Contact REDCOM at 585-924-6500 or via email at sales@redcom.com to
 14 discover how Infineon can add powerful UC solutions to your service portfolio."

15 VENUE

16 15. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) & (c)(2) because
 17 Redcom is subject to the court's personal jurisdiction as described above in paragraphs 9 to 13.

18 16. Venue is also proper in this District under 28 U.S.C. § 1391(b)(2) because a
 19 substantial portion of the events or omissions giving rise to Infineon's claims occurred in this
 20 District. On information and belief, Redcom has targeted its INFINION product to its identified
 21 "partners" that are headquartered in this District, and other potential customers that reside in this
 22 District. Redcom also promoted its INFINION product in this District at the "Fall Crush"
 23 meetings of the Western Telecommunications Alliance in October 2015 in Napa, California. On
 24 information and belief, Redcom has offered to sell and/or sold its Infineon product in this
 25 District. Redcom's advertising of its INFINION product in this District constitutes trademark
 26 infringement of the INFINEON Marks in this District.

1 17. Venue is also proper in this District because Redcom's trademark infringement in
2 this District has caused Infineon injuries in this District. Infineon has significant business
3 operations in this District, including production, research and development, and sales offices in
4 Milpitas, California. Infineon also has numerous customers in this District. Redcom's
5 advertising of its INFINION product in this District causes confusion and injury to Infineon's
6 reputation as a result of Redcom's misappropriation of the INFINEON Marks.

7 **INTRADISTRICT ASSIGNMENT**

8 18. This action qualifies as an "Intellectual Property Action," and should therefore be
9 assigned on a district-wide basis under Civil L.R. 3-2(c).

10 **FACTUAL ALLEGATIONS**

11 **A. Infineon's Business and Products**

12 19. Founded in 1999, Infineon is a global leader in developing and manufacturing a
13 diverse array of computer products serving a wide variety of applications and customers in the
14 United States and elsewhere. In the United States alone, Infineon employs over 3,500
15 employees, has 10 research and development locations and 9 production locations, and has over
16 180 distribution partners. Infineon employs over 35,000 people worldwide.

17 20. Since its inception in 1999 to the present, Infineon has used and continues to use
18 the INFINEON Marks in all facets of its business. Infineon's goods and services sold under the
19 INFINEON Marks include, but are not limited to, integrated circuits, semiconductors,
20 processors, controllers, mobile communications products and technology, software, software
21 development kits, and design of data processing programs.

22 21. Infineon's products span a broad range of markets and industries. For example,
23 Infineon is a market leader in the field of chip-based security and encryption products. Infineon
24 pioneered securing cellular machine-to-machine communication, and Infineon offers a broad
25 portfolio of security solutions including hardware, software and services in the fields of tailor-
26 made security, contactless communication and embedded microcontroller solutions. Infineon
27 provides security chips and software for use in smartphones and other mobile communications
28

1 devices, laptop computers, IT infrastructure, industrial internet systems, and connected vehicles,
2 among others.

3 22. Infineon is also well-known for developing and manufacturing semiconductor
4 components and systems that ensure the efficient generation and transmission of electric power.
5 Infineon provides power management products for, among other things, IT and
6 telecommunications systems, smartphones, tablets, and other mobile devices, PCs and
7 notebooks, servers, and cellular infrastructure.

8 23. As a result of Infineon's broad range of markets, Infineon's products and
9 applications reach a wide variety of different types of customers including, for example,
10 telecommunications companies and carriers, mobile device manufacturers, manufacturers of
11 networking equipment, government agencies, defense contractors, utilities, oil and gas
12 exploration companies, emergency response organizations, financial services companies, and
13 electronics companies.

14 24. As a result of Infineon's significant investment in and commitment to providing
15 these solutions in multiple different markets over the last 17 years, and its continuous and
16 extensive use of the INFINEON Marks in connection with these products and services, the
17 INFINEON Marks have achieved widespread recognition in the United States and worldwide
18 and have acquired enormous value as indicators that Infineon is the source of the products and
19 services on which those marks are used.

20 **B. Infineon's Trademarks**

21 25. To protect the goodwill Infineon developed in its name and products, Infineon
22 sought and received two separate federal trademark registrations directed to INFINEON.

23 26. Specifically, Infineon owns U.S. Registration No. 2,516,259 for the word mark
24 INFINEON, which issued on December 11, 2001, and has attained incontestable status. [Ex. A,
25 Registration Certificate]

26 27. Infineon also owns U.S. Registration No. 3,267,884, which was registered on July
27 24, 2007 and has attained incontestable status, and is directed to the following design:



[Ex. B, Registration Certificate]

C. Redcom's Business and Trademark

28. On information and belief, Defendant Redcom is a private company that has been in business for over 35 years developing and manufacturing telecommunications systems for commercial carriers, utilities, emergency response, and defense applications. Redcom's products include public and private network systems, ISDN systems, legacy systems, IP/VoIP based systems, media gateways and controllers, tactical systems, programmable platforms, and test equipment.

29. Upon information and belief, on or about September 22, 2015, Redcom launched a new computer product under the name INFINION.

30. Redcom describes INFINION as a "Unified Communications (UC) platform," *i.e.*, a product that provides integrated communications across a variety of different devices and media-types such as instant messaging services, voice call services, and voice/video conferencing systems. According to Redcom:

Infinion expands the reach of what traditional phones can accomplish. Phones are no longer hard-wired, single devices sitting on desks, but rather virtual endpoints that follow users and are not tied to specific hardware or locations. Any device that has a data connection – SIP-enabled phones, mobile devices, laptops, and computers — can become a source of communication using Infinion.

31. In marketing the INFINION product, Redcom touts its ability purportedly to provide "Secure & Encrypted communications," claiming that "Infinion includes defensive mechanisms for secure communications to those supporting banking, government, and exploration sectors."

1 32. According to Redcom, INFINION is a software product that is “hardware
2 agnostic,” and “designed to run on standard, commercial-off-the-shelf hardware.” Redcom
3 further explains that “Infinion can be deployed as a UC [Unified Communications] complement
4 to existing switch networks from REDCOM and third party vendors, or a stand-alone solution.”

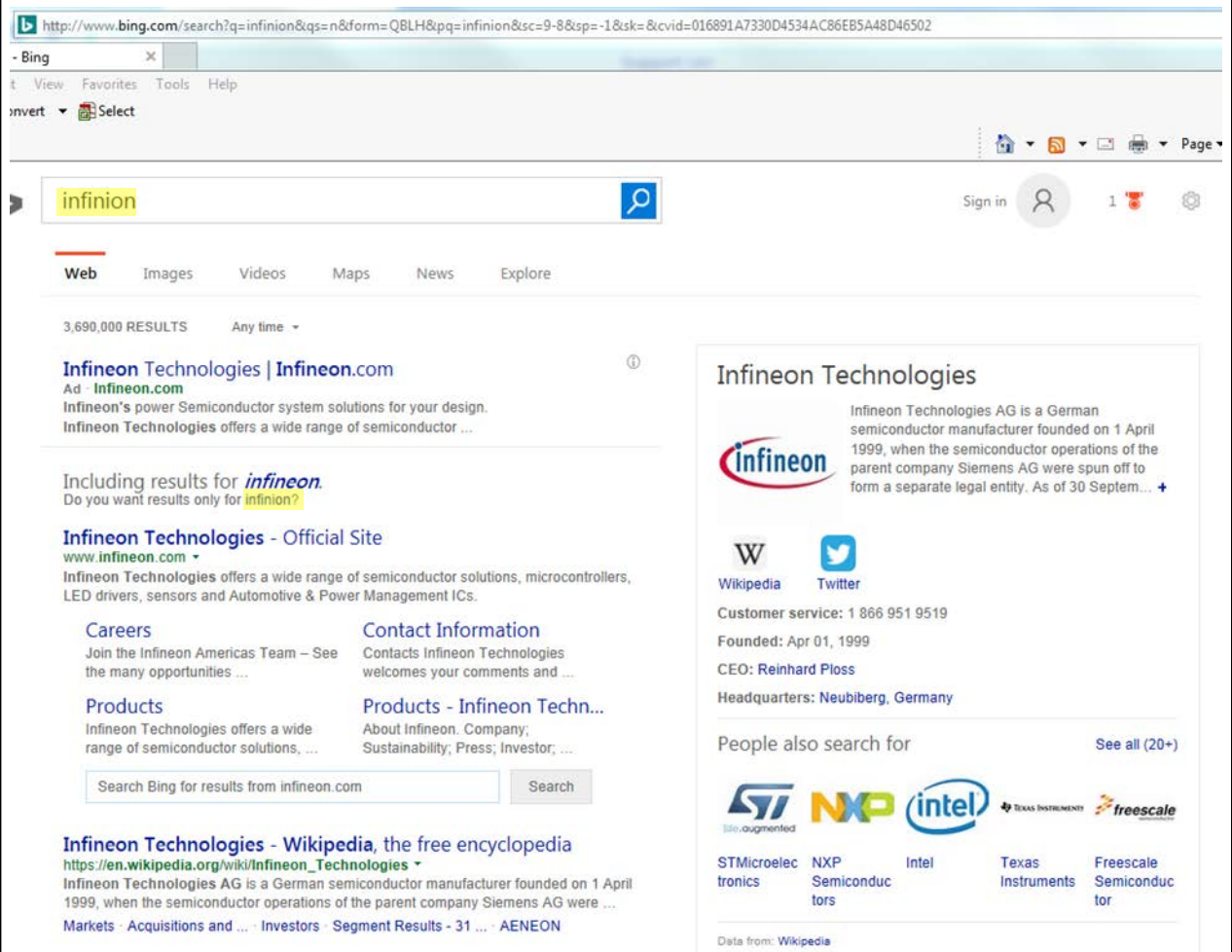
5 33. The target market for Redcom’s INFINION product includes many of the same
6 types of companies who are actual or potential customers of Infineon’s products, including
7 telecommunications carriers and service providers, the government and military, utilities, mining
8 and exploration companies, and emergency response organizations.

9 34. Infineon’s products, including for example its security and power management
10 solutions, are closely related to and/or complement Redcom’s INFINION product, and a
11 customer may choose to use them together in a single telecommunications system.

12 35. On information and belief, Redcom markets and sells its INFINION product
13 through channels of trade that overlap with those used by Infineon, including trade shows and
14 publications directed to similar audiences.

15 36. Redcom chose to use the term INFINION – which is phonetically equivalent and
16 nearly identical in spelling to INFINEON – with knowledge of Infineon and the INFINEON
17 Marks, and with the intent to leverage the recognition and goodwill that Infineon has developed
18 in the INFINEON Marks. On July 7, 2014, Redcom filed an application with the USPTO to
19 register the name INFINION as a trademark. Initially, the USPTO rejected the application
20 “because of a likelihood of confusion” with the INFINEON Marks. Redcom overcame the
21 rejection by arguing that its INFINION product was software specifically related to
22 telecommunications, while the goods and services described in Infineon’s registrations were
23 allegedly only hardware and not related to telecommunications. In fact, contrary to Redcom’s
24 representations to the USPTO and as described above, Infineon offers both hardware and
25 software, including to companies in the telecommunications industry. Not having been
26 presented with such information, the trademark examiner allowed Redcom’s application for
27 INFINION, and the registration issued on February 23, 2016 (the “INFINION mark”).

37. In fact, the INFINION mark is so similar to the INFINEON Marks that searching for “Infinion” on major search engines brings back results primarily for Infineon:



1 https://www.google.com/?gws_rd=ssl#q=infinion

2 - Google Search

3 View Favorites Tools Help

4 invert Select

5

6 Showing results for **infinion**

7 Search instead for **infinion**

8

9 **Infinion Technologies**

10 www.infineon.com/

11 Infineon's power Semiconductor system solutions for your design.
Modern Technology · Functionality · Semiconductor Solutions · International Company

12 **Infinion Technologies - Inventory, Pricing, & Datasheets - Mouser.com**

13 www.mouser.com/Infineon-Technologies (800) 346-6873
4.6 ★★★★★ rating for mouser.com
No Min Orders & Ships Same Day!
Authorized Distributor · No Minimum Orders · AS9100C & ISO 9001:2008 · Same Day Shipping
Transistors · Power Mgmt · Diodes & Rectifiers · MOSFETs

14 **Infinion Technologies - Authorized Infineon Distributor - DigiKey.com**

15 www.digikey.com/Infineon
4.4 ★★★★★ rating for digikey.com
Same Day Shipping at Digi-Key!
Immediate Shipment · World's Largest Selection · Tech Support 24/7 · 24 Hour Customer Service
Product Training Modules · Supplier Index · New Products · TechZones

16 **Semiconductor & System Solutions - Infineon Technologies**

17 <https://www.infineon.com/> Infineon Technologies
Infineon Technologies offers a wide range of semiconductor solutions, microcontrollers, LED drivers, sensors and Automotive & Power Management ICs.

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Results from infineon.com

Products
Application brochure. Infineon
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Our Locations
175 Infineon locations world-wide
of this website is subject to ...

Company
Infineon Technologies AG is a
world ... 30), the company ...

Contact
Please use the various contact
channels, which are accessible ...

Infinion Technologies Corporation
Manufacturer

Website Directions

Address: 640 N McCarthy Blvd, Milpitas, CA 95035
Phone: (866) 951-9519

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Sandisk Dr. Samsung Semicon... Inc. Corporate Campus

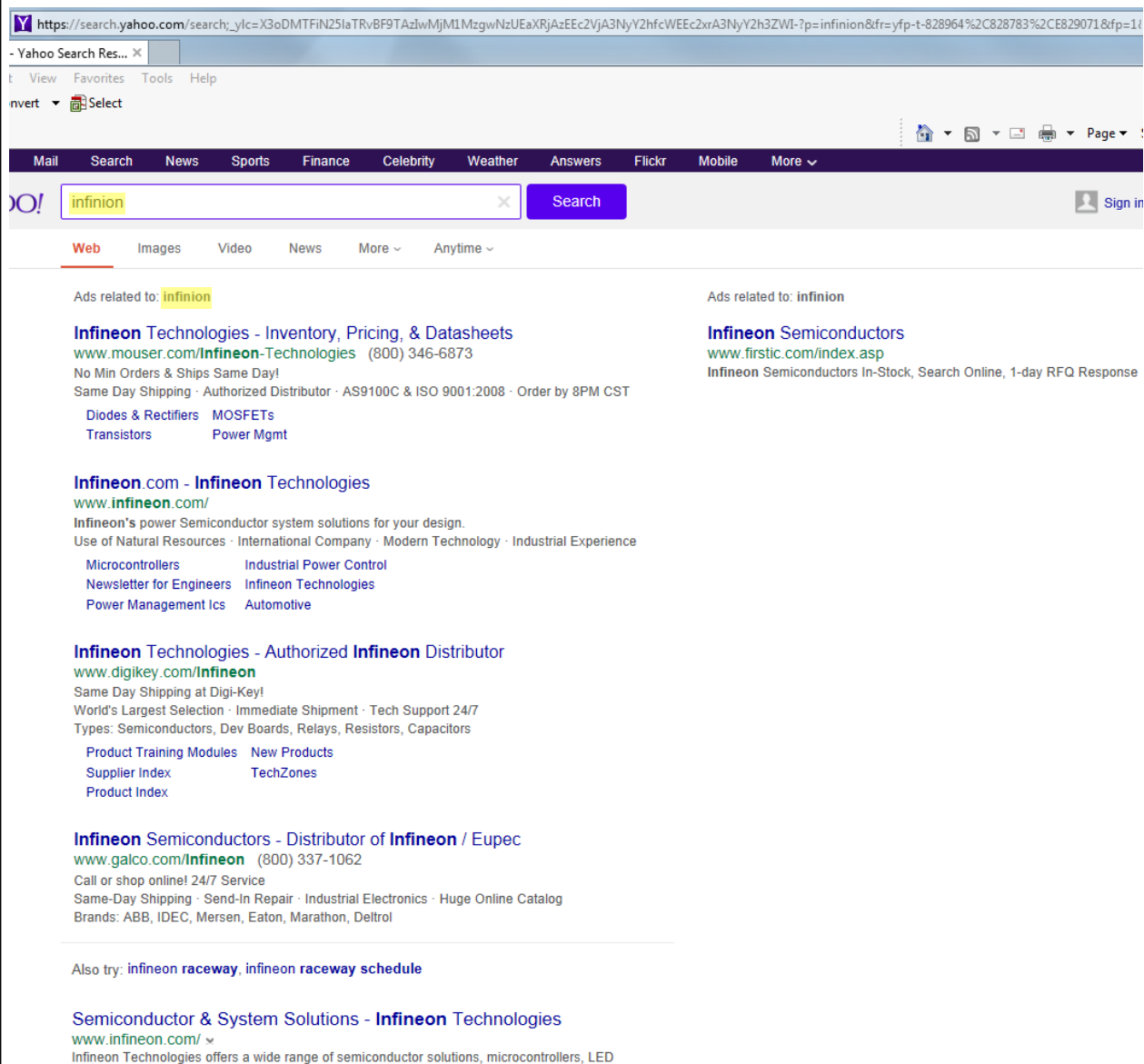
Varian Medical Systems Inc. Medical Equipment Supplier

IDC Technolo... Inc. Software Company

Avnet, Inc. Electronic Parts Supplier

Milpitas Auto Spa Car Wash

Feedback



38. Redcom is not licensed, authorized, sponsored, endorsed, or approved by Infineon to use the INFINEON Marks, or the confusingly similar INFINION mark, in association with its products or services.

39. On information and belief, Redcom's unauthorized use of INFINION on products that are closely related to products that Infineon offers under the INFINEON Marks has caused and is likely to continue to cause consumers to be confused, mistaken, or deceived into believing that Infineon is the source of Redcom's INFINION product, that Infineon has sponsored or

1 approved Redcom's INFINION product, and/or that there is an affiliation, connection or
2 association between Redcom's INFINION product and Infineon.

3 40. Redcom's use of the INFINION mark for its product has resulted in, and will
4 continue to result in, incalculable harm to Infineon because of a likelihood of confusion among
5 customers and injury to Infineon's reputation.

6 41. As a result, on December 3, 2015, Infineon wrote to Redcom expressing its
7 concern about the potential for confusion as a result of Redcom's selection of a name that is
8 virtually identical to INFINEON, for a product that is closely related to the goods and services
9 offered by Infineon, and asked Redcom to discontinue all use and efforts to register the
10 INFINION mark.

11 42. In a December 29, 2015 response, Redcom rejected Infineon's request and stated
12 its intention to continue using the INFINION mark despite the clear risk of confusion. True to its
13 word, Redcom has continued to use the INFINION mark with its unified communications
14 product.

15 43. Accordingly, Infineon seeks injunctive relief and damages, among other remedies,
16 to prevent Redcom from continuing to misappropriate Infineon's intellectual property, and to
17 prevent consumers from being further confused, deceived, and potentially harmed by Redcom's
18 wrongful conduct.

19 **FIRST CLAIM FOR RELIEF**

20 **(Trademark Infringement, 15 U.S.C. § 1114)**

21 44. Infineon incorporates and realleges paragraphs 1 through 43 of this Complaint.

22 45. Infineon owns incontestable rights in the federally registered INFINEON Marks,
23 United States Trademark Registration Nos. 2,516,259 and 3,267,884.

24 46. Redcom's unauthorized use of the INFINION mark is likely to cause confusion,
25 mistake, or deception as to the source, origin, or sponsorship of Redcom's products.

26 47. Redcom's actions are likely to lead consumers to conclude, incorrectly, that
27 Redcom's products are authorized or licensed by Infineon, to Infineon's detriment.

THIRD CLAIM FOR RELIEF

(Cancellation, 15 U.S.C. § 1119)

55. Infineon incorporates and realleges paragraphs 1 through 54 of this Complaint.

56. Redcom owns the United States Trademark “INFINION,” Registration No. 4,905,813.

57. Redcom’s use of the registered mark “INFINION” as set forth above, has caused, and is likely to cause confusion, mistake, or deception.

58. As a result of Redcom’s conduct, Infineon has suffered irreparable harm, and, unless Redcom’s Registration No. No. 4,905,813 is cancelled, will continue to suffer irreparable harm, as to which it has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

(Deceptive, False, and Misleading Advertising Under Cal. Bus. & Prof. Code §§ 17500 *et seq.*)

59. Infineon incorporates and realleges paragraphs 1 through 58 of this Complaint.

60. As a result of Redcom’s unauthorized use of the INFINION mark, consumers are likely to be confused, mistaken or deceived as to the affiliation, connection and/or association of Redcom’s products with Infineon, or as to the origin, sponsorship, approval of Redcom’s products, and/or as to the nature, characteristics or qualities of Redcom’s products.

61. Redcom’s wrongful conduct as described above constitutes deceptive, false and misleading advertising in violation of California Business & Professions Code §§ 17500 *et seq.*

62. As a direct and proximate result of Redcom’s wrongful conduct, Infineon has suffered harm, and unless Redcom is enjoined by the Court, Infineon will continue to suffer actual damages and irreparable harm, as to which Infineon has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

(Unfair Competition Under Cal. Bus. & Prof. Code §§ 17200 *et seq.*)

63. Infineon incorporates and realleges paragraphs 1 through 62 of this Complaint.

64. Redcom's conduct constitutes unlawful business acts or practices in that it has engaged in (1) trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114; (2) false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and (3) false and misleading advertising in violation of California Business and Professions Code §§ 17200 et seq.

65. As a direct and proximate result of Redcom's wrongful conduct, Infineon has suffered harm, and unless Redcom is enjoined by the Court, Infineon will continue to suffer actual damages and irreparable harm, as to which Infineon has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Infineon respectfully seeks the following relief:

1. Entry of judgment for Infineon on each of its claims;
2. An order and judgment enjoining Redcom and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from:
 - a. using in any manner any mark that is confusingly similar to or a colorable imitation of the INFINEON Marks owned by Infineon, including but not limited to the INFINION mark that is the subject of U.S. Trademark Registration No. 4,905,813;
 - b. doing any act or thing calculated or likely to cause confusion or mistake in the minds of the members of public or prospective customers as to the source of the products offered or distributed by Infineon, or likely to confuse members of the public, or prospective customers, into believing that there is some connection between Infineon and Redcom; and
 - c. otherwise competing unfairly with Infineon in any manner.
3. Entry of an order directing Redcom, pursuant to 15 U.S.C. § 1116(a), to file with this court and serve upon Infineon within thirty (30) days after entry of the injunction, a report in writing under oath setting forth in detail the manner and form in which Redcom has complied

1 with the injunction and ceased all offering of products under the INFINION mark as set forth
2 above;

3 4. Entry of an order directing Redcom, pursuant to 15 U.S.C. § 1118, to deliver up
4 for destruction, or to show proof of said destruction or sufficient modification to eliminate the
5 infringing matter, all catalogs, articles, products, displays, labels, circulars, letterhead, business
6 cards, promotional items, clothing, literature, or other matter in the possession, custody, or
7 control of Redcom or its agents bearing the INFINION mark in any manner, or any mark that is
8 confusingly similar to or a colorable imitation of the INFINEON marks;

9 5. Entry of an order directing the USPTO to cancel U.S. Registration No. 4,905,813
10 pursuant to 15 U.S.C. § 1119;

11 6. An award of damages sustained by Infineon as a result of Redcom's infringement,
12 and/or an accounting of Redcom's profits that are attributable to the infringement and
13 misconduct;

14 7. Pre- and post-judgment interest;

15 8. Costs of suit and reasonable attorneys' fees; and

16 9. Any and all other legal and equitable relief as may be available under law and
17 which the Court may deem proper.

DEMAND FOR JURY TRIAL

Infineon hereby demands a jury trial under Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 3-6(a) as to all issues in this lawsuit.

Dated: July 20, 2016

WILMER CUTLER PICKERING HALE AND DORR LLP

By: /s/ Arthur Coviello

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